

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 953/99

with

SPECIAL CIVIL APPLICATION NOS. 905/99,
906/99, 907/99, 757/99, 838/99, 869/99,
919/99, 940/99 & 958/99.

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE A.L.DAVE

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MEETA CHEMICALS

Versus

UNION OF INDIA

Appearance:

SPL.CIVIL APPLICATION NOS.905/99,906/99 & 907/99

MR MIHIR H JOSHI for petitioners
MR K.M.MEHTA for Respondent No.2

SPL.CIVIL APPLICATION NOS. 953/99 & 757/99.

MR MIHIR H.JOSHI for Petitioners.
MR M.R.SHAH, for Respondent No.2

SPL.CIVIL APPLICATION NOS.838/99, 869/99,919/99,940/99
AND 958/99.

MR MIHIR H JOSHI for Petitioners.
MR P.B.MAJMUDAR, for Respondent No.2

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE A.L.DAVE

Date of decision: 15/02/99

COMMON ORAL JUDGEMENT

Rule. Mr. K.M.Mehta waives service of Rule on behalf of the respondent No.2 in Special Civil Application No.905/99, 906/99 and 907/99. Mr. M.R.Shah, waives service of Rule on behalf of the respondent No.2 in Special Civil Application No.953/99 and 757/99. Mr. P.B.Majmudar waives service of Rule on behalf of the respondent No.2 in Special Civil Application No.838/99, 869/99, 919/99, 940/99 and 958/99.

2. Learned advocates appearing in all these matters have pointed out that the point raised in these petitions has been decided by a Division Bench of this Court in Special Civil Application No.6829 of 1997 decided on 15-10-1997. The learned advocates for the petitioners have submitted that the impugned orders which are passed in these matters by the Commissioner (Appeals) are not speaking orders and in absence of speaking orders, it is not possible for them to challenge the said orders.

3. In view of the law laid down by the Apex Court as well as this Court, it is open for the quasi judicial authority exercising the powers under Section 35F of the Central Excise and Salt Act, 1944 to pass an order in an application on merits without hearing the advocate or the party concerned. It is equally open for the quasi judicial authority to give an opportunity if it thinks fit. However, when an application is disposed of, a speaking order must be passed. In the case of M/s. Ratan Enterprise, being Special Civil Application No.6829 of 1997, the Division Bench, after hearing the counsel, issued a direction to rehear the application for stay preferred by the petitioner and to pass appropriate speaking order thereon. Under these circumstances, it is directed that the Commissioner of Central Excise and Customs (Appeals) shall decide the applications afresh and shall pass speaking orders on the applications submitted by the petitioners for stay. Such decision shall be rendered as early as possible and till the stay application is decided, recovery of pre-deposit shall not be made.

4. In view of the aforesaid direction, these petitions stand disposed of. No order as to costs.

15-2-99 (B.C.Patel, J.) (A.L.Dave, J.)

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